

REMARKS

Before entry of this Response, the status of the application according to the Decision on Appeal is as follows:

- Claims 21 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,922,631 to Anderié (hereinafter “Anderié”).
- Claims 23 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderié in view of U.S. Patent No. 5,446,977 to Nagano (hereinafter “Nagano”).
- Claims 1-4 and 7-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Appellant considers to be the invention.
- Claim 26 is not rejected or objected to.

Appellant hereby amends claims 2-4, 7-9, and 23-25 to depend from independent claim 26. Appellant cancels claims 1, 6, and 21. Claims 5 and 22 were previously canceled. Support for these amendments may be found in the Specification and claims as originally filed. No new matter has been added thereby.

1. Claims 21 and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by Anderié. Claim 21 has been cancelled, and claim 24 has been amended to depend from independent claim 26. Independent claim 26 is not rejected nor objected to, thereby rendering the rejection of claims 21 and 24 moot. Reconsideration and withdrawal of the rejection of claims 21 and 24 under 35 U.S.C. § 102(b) over Anderié are respectfully requested.
2. Claims 23 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Anderié in view of Nagano. Claims 23 and 25 have been amended to depend from independent claim 26, which is not rejected or objected to, thereby rendering the rejection of claims 23 and 25

moot. Reconsideration and withdrawal of the rejection of claims 23 and 25 under 35 U.S.C. § 103(a) over Anderié in view of Nagano are respectfully requested.

3. Claims 1-4 and 7-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Appellant considers to be the invention. Claim 1, which contained the cited language “a rib that projects beyond a bottom most surface of the torsion system,” has been cancelled, thereby rendering the rejection of that claim moot. Claims 2-4 and 7-20 have been amended to depend, either directly or indirectly, from independent claim 26, which is not rejected or objected to, thereby rendering the rejection of claims 2-4 and 7-20 moot. Accordingly, Appellant respectfully requests reconsideration and withdrawal of the rejection of claims 1-4 and 7-20 as being indefinite under 35 U.S.C. § 112, second paragraph.

4. Appellant respectfully submits that independent claim 26 is patentable. Appellant’s independent claim 26 recites, in part, a “rib . . . wherein the rib tunes torsionability of the cycling shoe.” As recognized at page 11 of the Decision on Appeal, Anderié does not disclose limb portions “capable of tuning torsionability in a cycling shoe.” Appellant respectfully submits that Anderié, as well as the other references of record, fail to teach or suggest the claimed structure. Because all pending dependent claims 2-4, 7-20, and 23-25 depend, either directly or indirectly, from independent claim 26, and therefore contain all the limitations thereof, these claims are patentable as well as a matter of law.

CONCLUSION

In view of the foregoing, Appellant respectfully requests reconsideration, withdrawal of all grounds of rejection, and allowance of claims 2-4, 7-20, and 23-26 in due course. The Examiner is invited to contact Appellant’s undersigned representative by telephone at the

number listed below to discuss any outstanding issues.

No fees are believed necessary for filing this Amendment and Response. However, if any fees are due, the Director is hereby authorized to charge such fees to our Deposit Account No. 07-1700, under Order No. ADI-005.

Respectfully submitted,

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